

**MINUTES OF THE MEETING OF THE
UNIFORM COMMERCIAL CODE COMMITTEE
OF THE STATE BAR OF CALIFORNIA**

January 7, 2005

9:30 a.m. to 11:45 a.m.

Offices of Pillsbury Winthrop, LLP

Los Angeles, San Francisco, Palo Alto, San Diego

The January 7, 2005 meeting of the Uniform Commercial Code Committee (the “Committee”) was called to order at approximately 9:30 a.m. with Sandra Shippey and Vasco Morais presiding.

A. ADMINISTRATIVE MATTERS.

1. **Roll Call.** Members of the Committee in attendance announced themselves and Vasco Morais, acting as the committee secretary, recorded attendance (see below). Sandra Shippey welcomed Sean Scott, a new member, to the UCC Committee. Vasco Morais introduced Diana Sanchez Bentz and Melanie Cass from Cooley Godward as two members of the paralegal task force.

2. **Approval of October 29, 2004 and November 15, 2004 Meeting Minutes.** The Committee review and approved, as presented, the minutes of the October 29, 2004 and November 15, 2004, meetings.

3. **Future Meeting Dates/Locations.** The Committee reconfirmed and established Thursday, February 3rd at 9:30 a.m., Thursday, March 3rd at 9:30 a.m. and Thursday, April 14th at 9:30 a.m. as the dates of the following videoconference meetings to be held at the offices of Pillsbury Winthrop.

4. **Solicitation for New Members.** Sandra Shippey advised that with the recent addition of Sean Scott, two additional vacancies existed on the Committee, that the Chairs recently were informed that the candidates to replace the 9 retiring members had to be submitted to the Executive Committee by the February 1st, and reminded the Committee of the need for submissions of potential candidates for the Committee. Vasco Morais advised that he had an individual serving as in-house counsel for an equipment leasing company interested in applying to join the Committee, and stated that he would seek his application to be submitted as soon as possible for consideration by the Committee. Sandra Shippey advised that Doug Krause had advised her that he had an associate in his firm who he believed was qualified and was interested in joining the Committee.

B. SUBCOMMITTEE REPORTS.

1. **Report of Control Agreement for Deposit Accounts Subcommittee.** Doug Krause led the Committee in a discussion on the proposed draft circulated of the “Comments of

the UCC Committee of the California Bar Association on the 11/29/04 Draft of the Model Deposit Account Control Agreement.”

2. Report of the Electronic Filing System Subcommittee. As the Committee was unaware that Kathleen Vasquez of the Secretary of State’s Office had called in at the allotted time, Vasco Morais spoke off-line with Kathleen Vasquez, and provided a quick summary report indicating that: (i) the certification date as of today was January 4th-(2 days ago), which is reduced significantly from the 3 weeks it took to obtain certified searches prior to the implementation of the electronic filing and searching system, and that Kathleen Vasquez had stated that this two day certification date was indicative of the popularity and efficiency of the online filing and searching system; (ii) the Secretary of State’s office was “up to” 50,000 online UCC-1 and UCC-3 filings (it was unclear if whether this number represented the aggregate number of filings since commencement of the electronic filing system or the amount filed in the last month or otherwise), and (iii) there are 15 bulk XHTML filers (but no individual XHTML filers). Vasco Morais then reported to the Committee that the Subcommittee had a meeting of the paralegal sub-group to review the California online UCC filings system, that they had developed a survey form which had been circulated to the Committee to be used to used for the purpose of reviewing and updating the survey results of the Subcommittee’s findings in May, and that Diana Sanchez Bentz and Melanie Cass from Cooley Godward would be leading the paralegal task force. Vasco Morais also indicated that it was the Subcommittee’s goal to first determine the status of the electronic filing and searching systems in the various 50 states, with the ultimate intent of recommending improvements and changes to the California filing and searching systems.

3. Report of Article 2/2A Subcommittee. Paul Barkes led a discussion on the National Association of Manufactures (NAM) web posting critique of Revised Article 2/2A. At the end of the discussion Barry Graynor raised the question as to whether the Committee should be responding to the NAM web-posting, the draft NCCUSL response to the web-posting, or via some other avenue. A consensus was reached that the best avenue for a response, would be a direct response by the UCC Committee to the NAM posting along with a notice to NCCUSL that they may wish to review it and, to the extent helpful, use it in finalizing NCCUSL’s response to NAM.

4. Report of the Uniform Certificate of Title Act Subcommittee. Konrad Schreier reported to the Committee that the latest draft of the Uniform Certificate of Title Act (UCOTA) was received on December 6, 2004, but due to his obligations and the obligations of most other subcommittee members to complete year end transactions, there was insufficient time to hold a subcommittee meeting. He reported that he has now reviewed the revised draft and several of the Committee’s suggested changes were incorporated into the revised draft and other suggested changes were not made. In addition, other new language had been added that needs to be reviewed and considered by the subcommittee. A subcommittee meeting is planned in the next few weeks with the goal of providing to the Committee for review at the next Committee meeting a draft written response from the UCC Committee to the latest draft of UCOTA.

5. Report of Website Development and E-Communications Committee. Jean LeBlanc noted that the newly revised website pages had been circulated to the Committee with

the materials and encouraged comments. Sandy Shippey inquired if all of the prior 2004 committee meeting minutes were now available and Jean LeBlanc confirmed that he had all of the prior minutes, including the October and November minutes approved earlier during the current meeting, and he intended to post all of the minutes in one batch on the website. Vasco Morais (i) indicated that the posted roster needs to be updated, (ii) informed the Committee that Steven O. Wiese has again offered to the Committee his Commercial Law Update that he prepares for the American Bar Association's Business Law Section for use as the Committee's contribution to the California State Bar Annual Survey of Law and that he would forward his Commercial Law Update to the Committee which will be forwarded to Jean LeBlanc to be posted on the Committee's website, and (iii) suggested that the posting on the website of future meetings be removed, as, due the frequent changes in meeting dates, the information became seriously misleading and outdated.

6. New Potential Subcommittee. Sandy Shippey circulated the Uniform Foreign-Country Money Judgments Recognition Act proposed by NCCUSL, and inquired whether there would be any interest in forming a new subcommittee to review the draft. Vasco Morais elaborated that specifically the UCC Committee is soliciting for members to participate in such a subcommittee. As no interest in forming the subcommittee was indicated, Vasco Morais suggested that this matter be tabled until the next Committee meeting.

7. Report of Foreign Filing Subcommittee. Arnold Rosenberg was not present but Jim Cochran reported that a subcommittee progress meeting was held and it was decided to focus on fewer countries and progress was being made (Alfred Sanchez had made contact with attorneys in eight Latin American countries. Barry Graynor's associate Stephanie Raue has made some progress with attorneys in Germany, and Arnold Rosenberg has contacted attorneys in Spain and Canada, but had not heard yet from attorneys in Israel and Russia).

8. Report of Opinions Subcommittee. Pauline Stevens was not present to report on the status of finalization and publication of the UCC Opinions Report. Vasco Morais offered to follow-up with Peter Szurley for a status on the UCC Opinions Report.

9. Report of the Hidden Lien Subcommittee. Bob Anderson was not present to report on the status of the Hidden Lien Subcommittee but Alfred Sanchez indicated that a conference call was scheduled for January 6, but only Alfred Sanchez, Francis Ferrer and Bob Anderson dialed in to the call. Sandy Shippey, Lisa Olsen and Jim Cochran indicated that they had tried but the conference procedure had requested a "privacy pin" which was not provided as part of the call-in instructions. Jim Cochran indicated that he talked to Bob Anderson after the call and Bob had indicated he would re-schedule the call later in the month with the goal of dividing up the hidden liens for research among the subcommittee members.

10. Report of E-Commerce Subcommittee. Francis Ferrer was not in attendance, and Lisa Olsen indicated that the E-Commerce subcommittee had not had a meeting since its first meeting. Lisa Olsen indicated that she would try to get a subcommittee meeting arranged in the near future .

11. Report of Legislative Subcommittee. Hugh Lawrence reported that the librarian who works with Jim Hayes would be doing the first searches for new legislation based upon the expanded search criteria developed last fall. He also advised the Committee that the subcommittee had received a copy of legislation introduced in Nevada regarding the “true sale” status of securitization transactions. He indicated that the subcommittee would be monitoring California to determine whether similar legislation has been or will be introduced in 2005.

12. Report of Liaison Subcommittee. Bob Slattery advised that he was awaiting a draft of the Native American Tribal Article 9. Sandy Shippey indicated that she would be interested in reviewing the Tribal Article 9 and asked if there were any other members interested in joining her, but no such interest was indicated.

13. Report on Publications and Programs. Sandy Shippey had circulated to the Committee members information regarding the request by the Executive Committee that the Committee propose by the end of January suggested topics the Committee would like to present at the State Bar Annual Meeting to be held in September. Konrad Schreier solicited suggestions for the presentations. Doug Krause suggested another discussion on the UCC electronic filing system updating from last year now that the California electronic filing and searching system has been implemented and online. Vasco Morais indicated that he would be willing to spearhead that presentation, but noted that the Committee offered a presentation on this topic for the January CLE meeting and that proposal was passed on by the State Bar. However, Vasco will determine whether there may be interest in a presentation on this subject for the Annual Meeting. Vasco Morais indicated that the substantive areas of the Committee’s work worthy of presentation were the Article 2/2A revisions and the Deposit Account Control Agreements. Lisa Olsen also suggested a presentation regarding the Hidden Liens project. Konrad Schreier indicated that he would respond to the Executive Committee and suggest these four possibilities as possible presentation topics by the UCC Committee at the State Bar Annual Meeting.

13. ExComm. Liaison Update. Pauline Stevens was not present at the meeting, therefore there was no update presentation from the Executive Committee.

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The meeting was adjourned at approximately 12:00 p.m.

Roll Call:

Vasco H. Morais	Present
Sandra L. Shippey	Present
R. Paul Barkes	Present
Samantha B. Good	Absent
Harry C. Sigman	Present
Robert B. Anderson	Absent
David V. Biesemeyer	Absent
James S. Cochran	Absent

Barry A. Dubin	Present
Francis X. Ferrer	Absent
Barry A. Graynor	Present
James A. Hayes, Jr.	Absent
Janice E. Kosel	Present
Doug Krause	Present
Hugh Lawrence	Present
Lary Lawrence	Present
Jean LeBlanc	Present
Lisa Olsen	Present
Matthew P. Polesetsky	Present
Arnold Rosenberg	Absent
Brenda H. Ruttenberg	Present
Alfred Sanchez, Jr.	Present
Sean Scott	Present
Konrad F. Schreier III, Esq.	Present
Robert V. Slattery, Jr.	Present
Audrey L. Sung	Absent
David W. Thill	Absent